

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 664
96TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, May 5, 2011, with recommendation that the Senate Committee Substitute do pass.

1583S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 87.005, 87.006, 87.120, 87.205, 87.207, 87.325, 87.330, 87.335, 87.340, and 87.345, RSMo, and to enact in lieu thereof eleven new sections relating to firemen's retirement.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 87.005, 87.006, 87.120, 87.205, 87.207, 87.325, 87.330, 2 87.335, 87.340, and 87.345, RSMo, are repealed and eleven new sections enacted 3 in lieu thereof, to be known as sections 87.005, 87.006, 87.120, 87.127, 87.205, 4 87.207, 87.325, 87.330, 87.335, 87.340, and 87.345, to read as follows:

87.005. 1. Notwithstanding the provisions of any law to the contrary, 2 after five years' service, any condition of impairment of health caused by any 3 **infectious disease**, disease of the lungs or respiratory tract, hypertension, or 4 disease of the heart resulting in total or partial disability or death to a uniformed 5 member of a paid fire department, who successfully passed a physical 6 examination within five years prior to the time a claim is made for such disability 7 or death, which examination failed to reveal any evidence of such condition, shall 8 be presumed to have been suffered in line of duty, unless the contrary be shown 9 by competent evidence. **In order to receive the presumption that an** 10 **infectious disease was contracted in the line of duty, the member shall** 11 **submit to an annual physical examination, at which a blood test is** 12 **administered.**

13 2. This section shall apply only to the provisions of chapter 87, RSMo 14 1959.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 **3. As used in this section, the term "infectious disease" means the**
16 **human immunodeficiency virus, acquired immunodeficiency syndrome,**
17 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**
18 **diphtheria, meningococcal meningitis, methicillin-resistant**
19 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**
20 **acute respiratory syndrome.**

 87.006. 1. Notwithstanding the provisions of any law to the contrary, and
2 only for the purpose of computing retirement benefits provided by an established
3 retirement plan, after five years' service, any condition of impairment of health
4 caused by any **infectious disease**, disease of the lungs or respiratory tract,
5 hypotension, hypertension, or disease of the heart resulting in total or partial
6 disability or death to a uniformed member of a paid fire department, who
7 successfully passed a physical examination within five years prior to the time a
8 claim is made for such disability or death, which examination failed to reveal any
9 evidence of such condition, shall be presumed to have been suffered in the line
10 of duty, unless the contrary be shown by competent evidence. **In order to**
11 **receive the presumption that an infectious disease was contracted in**
12 **the line of duty, the member shall submit to an annual physical**
13 **examination, at which a blood test is administered.**

14 2. Any condition of cancer affecting the skin or the central nervous,
15 lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular,
16 genitourinary, liver or prostate systems, as well as any condition of cancer which
17 may result from exposure to heat or radiation or to a known or suspected
18 carcinogen as determined by the International Agency for Research on Cancer,
19 which results in the total or partial disability or death to a uniformed member of
20 a paid fire department who successfully passed a physical examination within five
21 years prior to the time a claim is made for disability or death, which examination
22 failed to reveal any evidence of such condition, shall be presumed to have been
23 suffered in the line of duty unless the contrary be shown by competent evidence
24 and it can be proven to a reasonable degree of medical certainty that the
25 condition did not result nor was contributed to by the voluntary use of tobacco.

26 3. This section shall apply to paid members of all fire departments of all
27 counties, cities, towns, fire districts, and other governmental units.

28 **4. As used in this section, the term "infectious disease" means the**
29 **human immunodeficiency virus, acquired immunodeficiency syndrome,**
30 **tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D,**

31 **diphtheria, meningococcal meningitis, methicillin-resistant**
32 **staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**
33 **acute respiratory syndrome.**

87.120. The following words and phrases as used in sections 87.120 to
2 87.370, unless a different meaning is plainly required by the context, have the
3 following meanings:

4 (1) "Accumulated contributions", the sum of all amounts deducted from
5 the compensation of a member and credited to his or her individual account in the
6 members' savings fund together with interest thereon;

7 (2) "Actuarial equivalent", a benefit of equal value when computed upon
8 the basis of such mortality tables and interest rate as shall be adopted by the
9 board of trustees;

10 (3) "Average final compensation", the average earnable compensation of
11 the member during his or her last two years of service as a firefighter, or if the
12 firefighter has less than two years of service, then the average earnable
13 compensation of his or her entire period of service;

14 (4) "Beneficiary", any person in receipt of a retirement allowance or other
15 benefit as provided by sections 87.120 to 87.370;

16 (5) "Benefit reserve", the present value of all payments to be made on
17 account of any retirement allowance or benefit in lieu of a retirement allowance
18 upon the basis of such mortality tables and interest rate as shall be adopted by
19 the board of trustees;

20 (6) "Board of trustees", the board provided for in section 87.140 to
21 administer the retirement system;

22 (7) "City", any city not within a county and adopting the retirement
23 system provided by sections 87.120 to 87.370;

24 (8) "Creditable service", prior service plus membership service as provided
25 in section 87.135;

26 (9) "DROP", the deferred retirement option plan provided in section
27 87.182;

28 (10) "Earnable compensation", the regular compensation which a member
29 would earn during one year on the basis of the stated compensation for his or her
30 rank or position;

31 (11) **"Entry age normal funding method", a method under which**
32 **the actuarial present value of each active member's projected pension**
33 **and death benefit is allocated as a level percentage of the earning of**

34 **the individual between entry age and assumed exit age. The portion of**
35 **the funding requirement allocated to a valuation year is called the**
36 **normal cost. The actuarial accrued liability is the portion of the**
37 **actuarial present value not provided for at a valuation date by the**
38 **present value of future normal costs;**

39 (12) "Firefighter", any officer or employee of the fire department of the
40 city employed by the city for the duty of fighting fires, but does not include
41 anyone employed in a clerical or other capacity not involving fire-fighting duties.
42 In case of doubt as to whether any person is a firefighter within the meaning of
43 sections 87.120 to 87.370, the decision of the board of trustees shall be final;

44 [(12)] (13) "Medical board", the board of physicians provided for in section
45 87.160;

46 [(13)] (14) "Member", a member of the retirement system as defined by
47 section 87.130;

48 [(14)] (15) "Membership service", service as a firefighter rendered since
49 last becoming a member;

50 [(15)] (16) "Prior service", all service as a firefighter rendered prior to
51 the date the system becomes operative which is creditable in accordance with the
52 provisions of section 87.135;

53 [(16)] (17) "Retirement allowance", annual payments for life which shall
54 be payable in equal monthly installments or any benefits in lieu thereof granted
55 to a member upon retirement or to a beneficiary;

56 [(17)] (18) "Retirement system", the firefighter's retirement system of
57 any city as defined in section 87.125.

87.127. A retirement plan under sections 87.120 to 87.370 is
2 **intended to be a qualified governmental plan under the provisions of**
3 **applicable federal law. The benefits and conditions of the plan shall be**
4 **interpreted and the system shall be operated to ensure that the system**
5 **meets the federal qualification requirements.**

87.205. 1. Upon retirement for accidental disability **before August 28,**
2 **2011**, a member shall receive seventy-five percent of the pay then provided by law
3 for the highest step in the range of salary for the title or rank held by such
4 member at the time of such retirement unless the member is permanently and
5 totally incapacitated from performing any work, occupation or vocation of any
6 kind whatsoever and is continuously confined to the member's home except for
7 visits to obtain medical treatment, in which event the member may receive, in the

8 discretion of the board of trustees, a retirement allowance in an amount not
9 exceeding the member's rate of compensation as a firefighter in effect as of the
10 date the allowance begins.

11 2. Anyone who has retired pursuant to the provisions of section 87.170
12 and has been reinstated pursuant to subsection 2 of section 87.130 who
13 subsequently becomes disabled, as provided in section 87.200, shall receive a total
14 benefit which is the higher of either the disability pension or the service pension.

15 **3. Upon retirement for accidental disability on or after August**
16 **28, 2011, based on conditions of the heart, lungs, or cancer or based on**
17 **permanent and total disability which will prevent the member from**
18 **obtaining employment elsewhere, as determined by the board of**
19 **trustees based on medical evidence presented by the retirement**
20 **system's physicians, a member shall receive, regardless of his or her**
21 **number of years of creditable service, seventy-five percent of the**
22 **earnable compensation then provided for the step in the range of salary**
23 **for the title or rank held by such member at the time of such**
24 **retirement.**

25 4. Except as provided in subsection 3 of this section, upon
26 retirement for accidental disability on or after August 28, 2011, a
27 member shall receive a base pension equal to twenty-five percent of the
28 member's earnable compensation then provided for the step in the
29 range of salary for the title or rank held by such member at the time of
30 such retirement.

31 5. Except as provided in subsection 3 of this section, upon
32 retirement for accidental disability on or after August 28, 2011, the
33 member may elect to receive an education allowance in an amount not
34 to exceed the tuition for a state resident at the University of Missouri-
35 St. Louis. The accidentally disabled member shall enroll in a college,
36 university, community college, or vocational or technical school at the
37 first opportunity after the accidentally disabled member was retired
38 and shall receive such educational allowance in the form of
39 reimbursement upon proof of payment to such institution. The
40 education allowance described in this subsection shall cease when the
41 accidentally disabled member ceases to be a full-time student or if the
42 accidentally disabled member is restored to active service as a
43 firefighter, but in no event shall such education allowance be available
44 for more than five years after the member is retired under section

45 87.200.

46 6. Except as provided in subsection 3 of this section, upon
47 retirement for accidental disability on or after August 28, 2011, in
48 addition to the base pension provided for in subsection 4 of this section
49 and the education allowance provided for in subsection 5 of this
50 section, members with twenty-five years or less of creditable service
51 shall receive an additional accidental retirement pension equal to two
52 and three-fourths percent of the member's earnable compensation then
53 provided for the step in the range of salary for the title or rank held by
54 such member at the time of retirement for each year of creditable
55 service equal to or greater than ten years but not more than twenty-five
56 years.

57 7. Except as provided in subsection 3 of this section, upon
58 retirement for accidental disability on or after August 28, 2011, in
59 addition to the base pension provided for in subsection 4 of this section
60 and the additional accidental retirement pension provided for in
61 subsection 6 of this section, for members with twenty-five years or less
62 of creditable service, then during such time that the disabled member
63 is a full-time student in a college, university, community college, or
64 vocational or technical school and is receiving the educational
65 allowance provided for in subsection 5 of this section, such member
66 shall also receive a supplemental disability retirement pension in the
67 amount necessary so that his or her total accidental disability
68 retirement pension, excluding the education allowance, shall be equal
69 to one hundred percent of the earnable compensation then provided for
70 the step in the range of salary for the title or rank held by such
71 member at the time of such retirement. In no event shall such
72 supplemental accidental disability pension be paid for a period more
73 than five years after the member is retired under section 87.200.

74 8. Except as provided in subsection 3 of this section, upon
75 retirement for accidental disability on or after August 28, 2011, in
76 addition to the base pension provided for in subsection 4 of this section
77 and the education allowance provided for in subsection 5 of this
78 section, for members with more than twenty-five years of creditable
79 service, such member shall also receive an additional pension equal to
80 fifty percent of the member's earnable compensation then provided for
81 the step in the range of salary for the title or rank held by such

82 member at the time of such retirement.

83 9. Notwithstanding any other provisions in this section, upon
84 retirement for accidental disability, other than as provided in
85 subsection 3 of this section, on or after August 28, 2011, a member with
86 more than twenty years of creditable service but not more than twenty-
87 five years of creditable service may waive the right to receive the
88 education allowance provided for in subsection 5 of this section, the
89 right to additional pension retirement allowance provided for in
90 subsection 6 of this section, and the right to receive the supplemental
91 disability retirement pension provided for in subsection 7 of this
92 section and may elect to receive instead in addition to the accidental
93 disability retirement base pension as provided for in subsection 4 of
94 this section an additional pension from the date of such member's
95 retirement equal to forty percent of the member's earnable
96 compensation then provided for the step in the range of salary for the
97 title or rank held by such member at the time of such retirement. Any
98 such election shall be made prior to such member's receipt of his or her
99 first accidental disability pension payment.

87.207. The following allowances due under the provisions of sections
2 87.120 to 87.371 of any member who retired from service shall be increased
3 annually, as approved by the board of trustees beginning with the first increase
4 in the October following his or her retirement and subsequent increases in each
5 October thereafter, at the rates designated:

6 (1) With a retirement service allowance or ordinary disability allowance:

7 (a) One and one-half percent per year, compounded each year, up to age
8 sixty for those retiring with twenty to twenty-four years of service,

9 (b) Two and one-fourth percent per year, compounded each year, up to age
10 sixty for those retiring with twenty-five to twenty-nine years of service,

11 (c) Three percent per year, compounded each year, up to age sixty for
12 those retiring with thirty or more years of service,

13 (d) After age sixty, five percent per year for five years;

14 (2) With an accidental disability allowance, three percent per year,
15 compounded each year, up to age sixty, then five percent per year for five
16 years. **Provided, however, for accidental disability on or after August**
17 **28, 2011, for reasons other than provided in subsection 3 of section**
18 **87.205, unless a member has more than twenty-five years of creditable**

19 **service, the accidental disability allowance shall only increase at a rate**
20 **of one percent per year, compounded each year, up to age sixty, then**
21 **five percent per year for five years. For accidental disability on or**
22 **after August 28, 2011, for reasons other than provided in subsection 3**
23 **of section 87.205, if a member has more than twenty-five years of**
24 **creditable service, the accidental disability allowance shall only**
25 **increase at a rate of two and one-fourth percent per year, compounded**
26 **each year, up to age sixty, then five percent per year for five years.**

87.325. [Contributions to and payments from the general reserve fund
2 shall be as follows: On account of each member there shall be paid annually into
3 the fund by the city an amount equal to a certain percentage of the earnable
4 compensation of the member to be known as "the normal contribution" and an
5 additional amount equal to a percentage of his earnable compensation to be
6 known as "the accrued liability contribution". The rates percent of the
7 contributions shall be fixed on the basis of the liabilities of the retirement system
8 as shown by actuarial valuations.] **Effective October 1, 2011, based on data**
9 **from the plan year that ended September 30, 2011, the plan's actuary**
10 **shall calculate the amount that the city shall contribute in the**
11 **following manner: Each year, as of the first day of the system's fiscal**
12 **year, the actuary shall perform an actuarial valuation under the entry**
13 **age normal funding method and utilize such mortality tables and other**
14 **tables as shall be adopted by the board of trustees. On the basis of each**
15 **valuation, there shall be paid annually into the fund by the city an**
16 **amount equal to the sum of the normal contribution and an additional**
17 **amount to be known as the accrued liability contribution.**

87.330. On the basis of [the interest rate and of such mortality and other
2 tables as shall be adopted by the board of trustees, the actuary shall determine
3 the uniform and constant percentage of the earnable compensation of the average
4 new entrant, which, if contributed throughout his entire period of active service,
5 would be sufficient to provide for the payment of any death benefit or pension
6 payable on his account. The rate percent so determined shall be known as "the
7 normal contribution rate". After the accrued liability contribution has ceased to
8 be payable the normal contribution rate shall be the rate percent of the earnable
9 compensation of all members obtained by deducting from the total liabilities of
10 the fund the amount of the funds in hand to the credit of the fund and dividing
11 the remainder by one percent of the present value of the prospective future

12 compensation of all members as computed on the basis of the interest rate and
13 the mortality and service tables adopted by the board of trustees. The normal
14 rate of contribution shall be determined by the actuary after each valuation.]
15 **each annual actuarial valuation, as provided in section 87.325, the**
16 **normal contribution shall be determined as the normal cost under the**
17 **entry age normal funding method.**

87.335. [At the first valuation after the effective date of these
2 amendments (in 1959) the actuary engaged by the board of trustees shall compute
3 the rate percent of the total earnable compensation of all members which is
4 equivalent to three and one-half percent of the amount of the total unfunded
5 benefit liability on account of all members and beneficiaries which is not
6 dischargeable by the aforesaid normal contribution made on account of such
7 members during the remainder of their active service. The rate percent originally
8 so determined shall be known as "the accrued liability contribution
9 rate".] **Effective on October 1, 2011, based on data from the plan year**
10 **ended September 30, 2011, the actuary engaged by the board of trustees**
11 **shall compute an accrued liability contribution, the level rate**
12 **percentage of the total earnable compensation of current and future**
13 **earnings of current active members that will be required to amortize**
14 **the unfunded actuarial accrued liability as determined under the entry**
15 **age normal funding method over a thirty-year period commencing**
16 **October 1, 2011, based on data from the plan year ended September 30,**
17 **2011. Any future increase or decrease in the unfunded actuarial**
18 **accrued liability resulting from statutory changes shall be amortized**
19 **by an increment in the accrued liability contribution determined, as a**
20 **level percentage of earnable compensation over the thirty-year period**
21 **commencing with the beginning of the fiscal year coincident with or**
22 **next following the effective date of the statutory changes. All other**
23 **changes in the unfunded actuarial accrued liability subsequent to**
24 **October 1, 2011, including from experience gains and losses and from**
25 **changes in actuarial assumptions and methods shall be aggregated at**
26 **each actuarial valuation subsequent to October 1, 2011, and shall be**
27 **amortized as a level percentage of earnable compensation over the**
28 **thirty-year period commencing at the valuation date. The thirty-year**
29 **amortization period for the aggregated, unfunded liability changes**
30 **from experience gains and losses and from assumptions and method**
31 **changes shall be reestablished at each valuation date. The accrued**

32 **liability contribution at each valuation at and after October 1, 2012,**
33 **shall be increased by the level percentage determined as provided in**
34 **this section for the amortization of the aggregated unfunded liability**
35 **changes from experience gains and losses and from assumption and**
36 **method changes.**

87.340. The total amount payable in each year to the general reserve fund
2 shall be not less than the sum of the [rates percent known as the] normal
3 contribution [rate] and the accrued liability contribution [rate of the total
4 compensation earnable by all members during the year], and the aggregate
5 payment by the city shall be sufficient when combined with the amount in the
6 fund to provide the retirement allowances and other benefits payable out of the
7 fund during the then current year. The city may contribute at any time from
8 bond issue or other available funds an amount equal to the unfunded accrued
9 liability as certified by the actuary in which event no further accrued liability
10 contribution [will] **shall** be required [or], **except as determined at**
11 **subsequent actuarial valuations under section 87.335. The city may also**
12 **contribute any lesser amount from a bond issue or other available funds**
13 **which [will] shall** be used to proportionately reduce future accrued liability
14 contributions.

87.345. The accrued liability contribution [should be discontinued as soon
2 as the accumulated reserve in the general reserve fund shall equal the present
3 value as actuarially computed and approved by the board of trustees, of the total
4 liability of the fund, less the present value computed on the basis of the normal
5 contribution rate then in force of the prospective normal contributions to be
6 received on account of persons who are at that time members. The accrued
7 liability contribution rate may be decreased by the board of trustees provided the
8 reduced level rate does not require an amortization period extending beyond the
9 year 2010 for any accrued liability as of August 31, 1980. Subsequent to that
10 date, any changes in the accrued liability by reason of changes in the benefits
11 payable under the retirement system, changes in the actuarial assumptions, or
12 changes in the actuarial funding method are to be amortized over a period not
13 exceeding thirty years from the date in which the additional accrued liabilities
14 are recognized in the annual actuarial valuation of the system.] **will not need**
15 **to be paid for years in which the accumulated reserve in the general**
16 **reserve fund equals or exceeds the actuarial accrued liability as**
17 **determined by an actuarial valuation provided under section**

18 **87.325. For each year in which the accumulated reserve is equal to or**
19 **greater than the actuarial accrued liability, as determined under the**
20 **entry age normal funding method, the city shall contribute the normal**
21 **contribution as calculated by the plan actuary, and the city shall not**
22 **reduce its payment with respect to the normal contribution.**

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